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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JAVARIS DAVIS,

12 Plaintiff,

13 v.

14 J. DOERER, et al.,

15 Defendants.
16

Case No.: 1:24-cv-01498 JLT SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS, AND DIRECTING
PLAINTIFF TO PAY THE FILING FEE
WITHIN 30 DAYS

(Docs. 2, 14)

17 Javaris Davis filed this civil rights action pursuant to 42 U.S.C. § 1983, seeking to hold
18 the defendants liable for violations of his civil rights while housed at United States Penitentiary
19 Atwater. (*See generally* Doc. 1.) Plaintiff seeks to proceed *in forma pauperis* in this matter.
20 (Docs. 2, 8.) The magistrate judge found Plaintiff has sufficient funds to pay the filing fee in full,
21 based upon the report that he had an average monthly deposit of \$65, a balance of \$526.28 at the
22 time of filing, and average balance of \$533.46 for the six months prior to filing. (Doc. 14 at 2-3.)
23 Therefore, the magistrate judge recommended the Court deny the motion to proceed *in forma*
24 *pauperis* and order Plaintiff to pay the filing fee. (*Id.* at 4.)

25 Plaintiff filed a "Motion to Reconsider," which the Court construes to be his objections to
26 the Findings and Recommendations. (Doc. 15.) Plaintiff asserts that although he received money
27 from his "loved ones in his past, that does not mean that [he] can expect those gifts on a
28 continued basis." (*Id.* at 1.) He also contends that he does "not have the full sum to pay at the

1 time.” (*Id.*) Finally, Plaintiff contends he should be permitted to proceed *in forma pauperis* due
2 to misconduct by the staff that needs to be addressed. (*Id.*)

3 Significantly, Plaintiff does not dispute the finding that he had sufficient funds to pay the
4 filing fee in full when he filed the action. Instead, Plaintiff’s objection is based upon his current
5 inability to pay the filing fee in full. However, this argument is unavailing. Because Plaintiff had
6 sufficient funds to pay the filing fee when the action was initiated, it is irrelevant that he has since
7 spent the funds. Plaintiff’s *in forma pauperis* status is determined as of the date the complaint
8 was filed, and his expenditure of funds *after* filing does not support a claim of indigency at the
9 time of filing. See *Jaramillo v. Burnes*, 2023 WL 2575663, at *1 (E.D. Cal. Mar. 20, 2023).

10 According to 28 U.S.C. § 636(b)(1), this Court conducted a *de novo* review of this case.
11 Having carefully reviewed the entire matter, including Plaintiff’s objections, the Court concludes
12 the Findings and Recommendations to be supported by the record and proper analysis. Thus, the
13 Court **ORDERS**:

- 14 1. The Findings and Recommendations issued February 28, 2025 (Doc. 14) are
15 **ADOPTED** in full.
- 16 2. Plaintiff’s application to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
- 17 3. Plaintiff **SHALL** pay the full \$405 filing fee for this action **within 30 days** of the
18 date of service of this order to proceed with this action.

19 **Failure to pay the filing fee will result in the dismissal of this action.**

20
21 IT IS SO ORDERED.

22 Dated: **March 26, 2025**


UNITED STATES DISTRICT JUDGE